

AMENDED IN SENATE APRIL 3, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 329

Introduced by Senator Gaines

February 19, 2013

An act to amend Section 76140 of the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

SB 329, as amended, Gaines. Community colleges: nonresident tuition: Lake Tahoe Community College.

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts throughout the state, including the Lake Tahoe Community College District, and authorizes them to operate campuses and provide instruction to students. Existing law authorizes community college districts to admit nonresident students, and requires that nonresident students be charged a nonresident tuition fee unless an exemption is applicable.

This bill would exempt from the nonresident tuition fee students who attend Lake Tahoe Community College and who have residence in one of several designated communities in Nevada, as provided. The bill would require the governing board of the Lake Tahoe Community College District to adopt rules and regulations for determining a student's residence classification and for establishing procedures for an appeal and review of the residence classification. By imposing a new

duty on the Lake Tahoe Community College District, the bill would create a state-mandated local program.

This bill would make a legislative finding and declaration as to the necessity of a special statute for the Lake Tahoe Community College District with respect to students who reside in nearby communities located in Nevada.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 76140 of the Education Code, as added
2 by Section 66 of Chapter 38 of the Statutes of 2012, is amended
3 to read:

4 76140. (a) A community college district may admit and shall
5 charge a tuition fee to nonresident students. The district may
6 exempt from all or parts of the fee any person described in
7 paragraph (1), (2), (3), or (4):

8 (1) All nonresidents who enroll for six or fewer units.
9 Exemptions made pursuant to this paragraph shall not be made on
10 an individual basis.

11 (2) Any nonresident who is both a citizen and resident of a
12 foreign country, if the nonresident has demonstrated a financial
13 need for the exemption. Not more than 10 percent of the
14 nonresident foreign students attending any community college
15 district may be so exempted. Exemptions made pursuant to this
16 paragraph may be made on an individual basis.

17 (3) (A) A student who, as of August 29, 2005, was enrolled,
18 or admitted with an intention to enroll, in the fall term of the
19 2005–06 academic year in a regionally accredited institution of
20 higher education in Alabama, Louisiana, or Mississippi, and who
21 could not continue his or her attendance at that institution as a

1 direct consequence of damage sustained by that institution as a
2 result of Hurricane Katrina.

3 (B) The chancellor shall develop guidelines for the
4 implementation of this paragraph. These guidelines shall include
5 standards for appropriate documentation of student eligibility to
6 the extent feasible.

7 (C) This paragraph shall apply only to the 2005–06 academic
8 year.

9 (4) (A) A student who attends Lake Tahoe Community College
10 and who has residence, pursuant to subparagraph (B), in one of
11 the following communities in Nevada:

12 (i) Incline Village.

13 (ii) Kingsbury.

14 (iii) Round Hill.

15 (iv) Skyland.

16 (v) Stateline.

17 (vi) Zephyr Cove.

18 (B) (i) Residence shall be determined pursuant to Article 5
19 (commencing with Section 68060) of Chapter 1 of Part 41 of
20 Division 5. A person shall have residence in one of the
21 communities listed in subparagraph (A) if the person has lived in
22 the community for more than one year immediately prior to seeking
23 the fee exemption pursuant to this paragraph.

24 (ii) The governing board of the Lake Tahoe Community College
25 District shall adopt rules and regulations for determining a student's
26 residence classification and for establishing procedures for an
27 appeal and review of the residence classification.

28 (b) A district may contract with a state, a county contiguous to
29 California, the federal government, or a foreign country, or an
30 agency thereof, for payment of all or a part of a nonresident
31 student's tuition fee.

32 (c) Nonresident students shall not be reported as full-time
33 equivalent students (FTES) for state apportionment purposes,
34 except as provided by subdivision (j) or another statute, in which
35 case a nonresident tuition fee shall not be charged.

36 (d) The nonresident tuition fee shall be set by the governing
37 board of each community college district not later than February
38 1 of each year for the succeeding fiscal year. The governing board
39 of each community college district shall provide nonresident
40 students with notice of nonresident tuition fee changes during the

1 spring term before the fall term in which the change will take
2 effect. Nonresident tuition fee increases shall be gradual, moderate,
3 and predictable. The fee may be paid in installments, as determined
4 by the governing board of the district.

5 (e) (1) The fee established by the governing board pursuant to
6 subdivision (d) shall represent for nonresident students enrolled
7 in 30 semester units or 45 quarter units of credit per fiscal year
8 one or more of the following:

9 (A) The amount that was expended by the district for the
10 expense of education as defined by the California Community
11 College Budget and Accounting Manual in the preceding fiscal
12 year increased by the projected percent increase in the United
13 States Consumer Price Index as determined by the Department of
14 Finance for the current fiscal year and succeeding fiscal year and
15 divided by the FTES (including nonresident students) attending
16 in the district in the preceding fiscal year. However, if for the
17 district's preceding fiscal year FTES of all students attending in
18 the district in noncredit courses is equal to, or greater than, 10
19 percent of the district's total FTES attending in the district, the
20 district may substitute the data for expense of education in grades
21 13 and 14 and FTES in grades 13 and 14 attending in the district.

22 (B) The expense of education in the preceding fiscal year of all
23 districts increased by the projected percent increase in the United
24 States Consumer Price Index as determined by the Department of
25 Finance for the fiscal year and succeeding fiscal year and divided
26 by the FTES (including nonresident students) attending all districts
27 during the preceding fiscal year. However, if the amount calculated
28 under this paragraph for the succeeding fiscal year is less than the
29 amount established for the current fiscal year or for any of the past
30 four fiscal years, the district may set the nonresident tuition fee at
31 the greater of the current or any of the past four-year amounts.

32 (C) An amount not to exceed the fee established by the
33 governing board of any contiguous district.

34 (D) An amount not to exceed the amount that was expended by
35 the district for the expense of education, but in no case less than
36 the statewide average as set forth in subparagraph (B).

37 (E) An amount no greater than the average of the nonresident
38 tuition fees of public community colleges of no less than 12 states
39 that are comparable to California in cost of living. The
40 determination of comparable states shall be based on a composite

1 cost-of-living index as determined by the United States Department
2 of Labor or a cooperating government agency.

3 (2) The additional revenue generated by the increased
4 nonresident tuition permitted under the amendments made to this
5 subdivision during the 2009–10 Regular Session shall be used to
6 expand and enhance services to resident students. In no event shall
7 the admission of nonresident students come at the expense of
8 resident enrollment.

9 (f) The governing board of each community college district also
10 shall adopt a tuition fee per unit of credit for nonresident students
11 enrolled in more or less than 15 units of credit per term by dividing
12 the fee determined in subdivision (e) by 30 for colleges operating
13 on the semester system and 45 for colleges operating on the quarter
14 system and rounding to the nearest whole dollar. The same rate
15 shall be uniformly charged nonresident students attending any
16 terms or sessions maintained by the community college. The rate
17 charged shall be the rate established for the fiscal year in which
18 the term or session ends.

19 (g) Any loss in district revenue generated by the nonresident
20 tuition fee shall not be offset by additional state funding.

21 (h) Any district that has fewer than 1,500 FTES and whose
22 boundary is within 10 miles of another state that has a reciprocity
23 agreement with California governing student attendance and fees
24 may exempt students from that state from the mandatory fee
25 requirement described in subdivision (a) for nonresident students.

26 (i) Any district that has more than 1,500, but less than 3,001,
27 FTES and whose boundary is within 10 miles of another state that
28 has a reciprocity agreement with California governing student
29 attendance and fees may, in any one fiscal year, exempt up to 100
30 FTES from that state from the mandatory fee requirement described
31 in subdivision (a) for nonresident students.

32 (j) The attendance of nonresident students who are exempted
33 pursuant to subdivision (h) or (i), or pursuant to paragraph (3) *or*
34 (4) of subdivision (a), from the mandatory fee requirement
35 described in subdivision (a) for nonresident students may be
36 reported as resident FTES for state apportionment purposes. Any
37 nonresident student reported as resident FTES for state
38 apportionment purposes pursuant to subdivision (h) or (i) shall
39 pay a per unit fee that is three times the amount of the fee
40 established for residents pursuant to Section 76300. That fee is to

1 be included in the FTES adjustments described in Section 76330
2 for purposes of computing apportionments.

3 (k) This section shall become operative on July 1, 2013.

4 SEC. 2. The Legislature finds and declares that a special law
5 is necessary and that a general law cannot be made applicable
6 within the meaning of Section 16 of Article IV of the California
7 Constitution because of the unique circumstances of the Lake
8 Tahoe Community College District with respect to students who
9 reside in nearby communities located in Nevada.

10 SEC. 3. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.